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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Calling Party Pays Service Offering) WT Docket No. 97-207
in the Commercial Mobile Radio Services)

To: The Commission

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF NEXTEL COMMUNICATIONS, INC.

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SUMMARY

Nextel Communications, Inc. respectfully submits these Comments on the Federal Communications Commission's ("Commission") Notice of Proposed Rulemaking ("Notice") on the introduction of Calling Party Pays ("CPP") services in the United States.

Nextel files these Comments to support the Commission's conclusion that CPP can make mobile wireless communications services more attractive by reducing economic incentives for subscribers to limit dissemination of their telephone numbers or keep their handsets off to avoid paying for incoming calls. By encouraging subscribers to accept incoming calls, CPP can potentially increase wireless use -- particularly by price-conscious customers -- thereby spurring competition among wireless carriers as well as the public's acceptance of mobile wireless telecommunications services as an alternative to wireline local exchange service. Nextel submits, however, that these benefits can be realized only if the Commission (1) eliminates regulatory obstacles to providing CPP service; and (2) relies primarily on consumer education, rather than cumbersome per-call notice requirements, for CPP implementation, as discussed below.

Nextel supports the Commission's Declaratory Ruling that CPP is a Commercial Mobile Radio Service ("CMRS") subject to the Commission's jurisdiction pursuant to Section 332 of the Communications Act of 1934. As a CMRS service, CPP can be implemented in an efficient uniform manner throughout the U.S. without being subject to potentially conflicting state rules and

regulations that could hinder its deployment. Additionally, the Commission can best facilitate CPP implementation by avoiding establishing a complex set of CPP rules and regulations. Rather, CPP will most efficiently and effectively become available through Commission efforts to remove barriers currently restricting its implementation, thereby providing a simple process that ensures a seamless transition to CPP calling. Simplicity and seamlessness can only be achieved by assuring a minimal amount of intrusion in the calling process.

First, the Commission should provide for a wireline and wireless industry consumer education program that introduces and explains CPP service prior to and during its implementation rather than requiring per-call notice on CPP calls. Second, if the Commission nonetheless requires per-call notification, it should be short and simple, thereby facilitating a seamless wireless CPP calling process. The Commission should not require per-call notice to include rate information; this would result in excessive call completion delay and thereby discourage CPP usage. Instead, "1+" dialing can be required to assure that consumers are aware they are making a toll call.

Third, given the competitiveness of the wireless marketplace, the Commission should adopt its tentative conclusion that the marketplace should set CPP calling rates. Finally, to further facilitate CPP introduction and ensure that consumers are properly billed for their CPP calls, the Commission should require Local Exchange Carrier ("LEC") participation in the CPP billing and

collections process, pursuant to its authority in Section 251 of the Communications Act of 1934, as amended.

These actions, as explained further herein, will enable wireless carriers to facilitate the rapid and seamless introduction of CPP services in the U.S., thereby increasing competition among wireless carriers, and between wireless and wireline carriers for the benefit of users of communications services.

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COMMENTS OF NEXTEL COMMUNICATIONS, INC.

I. INTRODUCTION

Pursuant to the Notice of Proposed Rulemaking ("Notice") of the Federal Communications Commission ("Commission"),^{1/} Nextel Communications, Inc. ("Nextel") respectfully submits these Comments on the Commission's proposal to facilitate the introduction of Calling Party Pays ("CPP") services in the United States.

Nextel previously filed Comments and Reply Comments on the Commission's Notice Of Inquiry in this proceeding, supporting the introduction of CPP services. Nextel supports the Commission's conclusion herein that CPP services are Commercial Mobile Radio Services ("CMRS") subject to the Commission's jurisdiction pursuant to Section 332 of the Communications Act of 1934. As a CMRS service, CPP can be implemented in an efficient uniform manner throughout the U.S. without being subject to potentially conflicting state rules and regulations that could hinder its deployment.

^{1/} Notice of Proposed Rulemaking, WT Docket No. 97-207, FCC 99-137, released July 7, 1999.

Nextel supports the Commission's ultimate goal of removing regulatory obstacles that hinder or prevent wireless service providers from offering a calling option comparable to the traditional wireline service model, in which the calling party pays for most calls it chooses to make. Accordingly, Nextel submits these comments in support of the Commission's continued efforts to facilitate the implementation of CPP services, and asserts herein that the Commission can best facilitate CPP introduction as follows:

(a) The Commission should provide for a wireline and wireless industry consumer education program that introduces and explains the service prior to and during its implementation; CPP per call notice should not be mandated.

(b) If, however, the Commission requires per-call notification, such notice should be short and simple, e.g., "1+" dialing, thereby ensuring a seamless wireless calling process. The Commission should not mandate specific per-call rate information, as discussed herein.

(c) The Commission should adopt its tentative conclusion that the marketplace should set CPP rates.

(d) The Commission should require Local Exchange Carrier ("LEC") participation in the CPP billing and collections process.^{2/}

II. BACKGROUND

Nextel is a provider of CMRS services, currently offering users its integrated digital mobile communications services in over 400 cities nationwide. Nextel's CMRS service employs Motorola's iDEN technology to provide cellular telephone service, digital dispatch communications services (Nextel's "Direct Connect"

^{2/} The term "LEC" as used herein is intended to include both incumbent LECs and Competitive LECs.

service), paging services, and prospectively data and Internet services. Nextel was the first CMRS carrier to introduce one-second rounding of airtime charges, and the first to introduce nationwide roaming without roaming fees. In just over three years, moreover, Nextel has added more than three million users to its network.

As noted above, Nextel supports Commission action to facilitate the ability of wireless service providers to offer CPP in the U.S. and applauds the Commission's efforts to date. CPP, as has been demonstrated in Europe, promotes increased wireless phone usage by encouraging wireless subscribers to leave his or her mobile unit on for incoming calls. Thus, the Commission should take the actions proposed herein to facilitate the ability of wireless service providers to introduce CPP services on a consistent, simple, nationwide basis.

III. DISCUSSION

A. CPP Notification

Consumer Education. The Commission's single most important goal in facilitating the successful implementation of CPP should be simplicity. If CPP is to be a readily accepted telecommunications service in the U.S., its implementation and subsequent use must be seamless to consumers. Wireless calling should not become more burdensome or more complex as a result of lengthy and complex CPP notification processes. Thus, to fully inform consumers and prepare them for CPP calling options, Nextel supports a nationwide consumer education campaign by the wireless and LEC industries.

A comprehensive, nationwide campaign directed at wireless subscribers and LEC customers could successfully reach nearly every potential CPP caller in the U.S. Bill stuffers, bill messages, separate informational mailings from carriers, and multi-media campaigns would provide repetitive materials to educate consumers about CPP calling and the fact that the party placing the call will be charged for the airtime. Additionally, an educational campaign could encourage wireless customers to inform their potential callers (e.g., persons to whom they give their wireless phone number, their business card, etc.) that they have subscribed to CPP and will therefore incur a charge when calling their wireless number.

Consumer education programs have been used successfully to introduce other telecommunications services, e.g., Caller ID, without any additional per-call notification. Consumers generally recognize that today's telecommunications marketplace is a quickly changing and expanding service arena, thus the advent of a new service should not come as a surprise to consumers. Educating both LEC and wireless customers provides greater assurance that the vast majority of potential CPP callers are informed of the new service; if it believes it necessary, the Commission can require periodic reminder campaigns during the early stages of CPP introduction. Consumer education is a key ingredient to CPP's introduction in the U.S., and seamless implementation and functionality is key to CPP success. Therefore, an education program, sponsored by the LECs and the wireless carriers, using multiple media outlets, is the

most reasonable, unobtrusive and effective tool for educating consumers and providing them with notice of CPP availability.

Per-Call Notice. Nextel submits that requiring per-call notification to callers that they are making a CPP call will create complexities, add delays and make wireless CPP calling a less effective and more burdensome consumer calling process. Rather than a per-call CPP tone or special message that interrupts the flow of the calling process, Nextel suggests that using "1+ dialing," one of the proposals in the Notice,^{3/} offers a less intrusive per-call reminder to callers that they will be paying for the call. A 1+ dialing requirement for CPP calls -- in addition to the consumer education program described above -- provides seamless notification to the caller that he or she will incur charges for making the call. Dialing a "1" before a phone number is not new to consumers; they generally understand the implications of 1+ dialing.^{4/} Therefore, in the event the Commission requires per-call notification, Nextel supports a 1+ dialing protocol, in concert with an education program that informs consumers of CPP calling via 1+ dialing, as the most efficient avenue for introducing CPP service, thus furthering the goal of a seamless and timely transition to CPP availability. The 1+ notification would

^{3/} Notice at para. 45.

^{4/} Nextel recognizes that this approach would not differentiate for the caller a CPP call from a long distance or intra-LATA toll call as each type of call would require 1+ dialing. This is not, however, a problem. Using the "1+" prefix would assure that the caller recognizes that he/she is making a "toll" call and agrees to pay the charges for the call.

permit the quickest and simplest implementation of CPP services to Americans.

CPP-Only NXX Codes. In contrast to 1+ dialing, distinct NXX codes are not an effective CPP notification alternative in the U.S. for two reasons.^{5/} First, the U.S. telecommunications marketplace already is facing a shortage of NXX codes and is seeking avenues to assign, allocate and use telephone numbers more efficiently.^{6/} Setting aside "special" NXX codes for CPP would take tens of thousands of telephone numbers out of circulation in anticipation of wireless subscribers over time choosing CPP service. Taking telephone numbers out of circulation -- particularly in blocks of 10,000 as would be required for wireless carriers -- at a time when more and more telecommunications carriers and customers are entering the marketplace is inconsistent with the Commission's and the North American Numbering Council's goals for number conservation and efficient utilization. With more than 70 million wireless users in the U.S., it is far too late to establish distinctive CPP NXX codes. The dislocations of requiring legacy subscribers to change their telephone numbers to subscribe

^{5/} See Notice at para. 48. Special NXX codes for CPP works well in European countries only because (a) CPP is not optional on wireless networks, thus eliminating the need to change phone numbers should a customer opt out of CPP; and (b) CPP has been the only wireless calling pattern since wireless systems were first introduced in Europe. Attempting to retrofit the European CPP standard on wireless billing in the U.S. is not consistent with the Commission's pro-competitive telecommunications marketplace goals.

^{6/} Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 99-122, released June 2, 1999.

to CPP service would be at odds with the Commission's goal of facilitating a simple, seamless wireless service alternative.^{7/}

Secondly, using distinct CPP NXX codes would create inconsistencies with the Commission's Local Number Portability ("LNP") policies. The Commission's goal in LNP implementation is to ensure that consumers do not have to change their current phone numbers in order to change service providers in a market. Once LNP is fully implemented, CPP NXX codes could prevent portability between wireless and wireline networks. For example, a wireline customer choosing to switch to a wireless system would be forced to choose between (a) keeping his or her phone number and (b) opting for CPP service. If the Commission has designated particular NXX codes as CPP phone numbers, the former wireline customer would have to change to the set-aside CPP NXX code to initiate the CPP service.

B. Alternative CPP Notification Proposals

Should the Commission conclude -- despite the likely effectiveness and efficiency of a consumer education program and 1+ dialing notification -- that an audio notification must be provided on each and every call made to a CPP customer, Nextel urges the Commission to introduce a notification process that is a uniform throughout the nation and that is clear, concise and simple.

^{7/} Moreover, should that customer change his or her mind and desire to drop CPP services, he or she would, again, have to change numbers to eliminate the CPP option. Requiring consumers to change their phone number simply to add or delete a particular service option is not in the public interest.

The most simple per-call notification process is a tone informing the customer that he or she will be charged for making the call. The tone would be implemented after consumers first have been educated as to the type of tone, its implications and how and when they should expect to hear it. The use of tones in the calling process is not new to consumers, who use them with calling cards and other telecommunications services. Thus, a consumer education program, informing customers of the specific CPP tone and its consequences, should be sufficient to prepare them for CPP calling. Moreover, a tone is less disruptive and invasive to the call process than a spoken message, and would -- in concert with the educational process -- provide consumers sufficient notification.

If a spoken message, informing callers they will be charged for the call, is required on each and every CPP call, the Commission must ensure that it is brief, clear and simple. Consumers should not be subject to long, complex messages that delay completion of CPP calls. Again, imposing onerous notification requirements on each and every call will only discourage consumers from opting for CPP services. Moreover, if the Commission requires a spoken notice on every CPP call, the requirement should be phased out over time, as proposed by the Cellular Telecommunications Industry Association.^{8/} Consumers quickly will become acquainted and comfortable with CPP calling -- just as they have with "dial around" long distance calling, calling

^{8/} See Notice at para. 41.

cards, toll free calling, Caller ID and any number of other telecommunications services. Thus, indefinite continuation of per-call messages on CPP calls would not only be burdensome, but also unnecessary. A spoken notice could be phased out in 18-24 months.

One definite complication and added burden in the notification process would be to require rate information in any per-call notification. Rate information would only lengthen the message and further delay the calling process. In the Notice, the Commission stated that "common sense tells us that most people would be reluctant to undertake responsibility for paying for the call without some information about the amount of payment."9/ This statement, however, ignores the fact that consumers accept and complete calls every day for which they do not know the amount of payment. For example, consumers accepting collect calls are only told they must pay for the call. Nowhere in the message are they informed the rate at which they will be charged. Additionally, numerous international long distance calls are made every day by individuals unaware of the per-minute charges.

Moreover, wireless rates are not static in a competitive marketplace. Thus, carriers would be required to constantly change and update their CPP messages as the competitive marketplace changes and develops. This could add further confusion to a per-call informational message as callers would potentially hear differing messages each and every time they make a CPP phone call. Requiring the inclusion of per-minute rate information would change

9/ Notice at para. 43.

the nature of wireless CPP calling, eliminating its seamlessness by including a long, detailed message on each and every CPP call. If the CPP service is not seamless -- similar to any other wireless call -- consumer acceptance will be more difficult for achieve.

Single Nationwide Standard. Regardless of the notification alternative imposed by the Commission, such notification processes and procedures must be uniform from state-to-state. As the Commission recognized in the Notice, a single uniform nationwide notification standard is critical to both carrier implementation and consumer acceptance and understanding. Inconsistent messages from state-to-state would be confusing to customers; on the contrary, by staying "on message" in every part of the country, carriers could more readily and consistently explain CPP to consumers, thereby facilitating its acceptance and use.

Moreover, differing messages from state-to-state would create significant technological, networking and administrative burdens for wireless carriers. Nextel, for example, operates a single, integrated network throughout many of the 50 states. Implementing 40 or 50 differing messages, if even possible in a system with Mobile Switching Centers ("MSC") covering more than one state, would be very costly as well as operationally burdensome. Moreover, varying messages would create increased customer confusion, particularly for customers roaming throughout the Nation. Ultimately, the Commission must provide "a simpler, more streamlined notification system. . ."10/

10/ Notice at para. 44.

C. CPP Rates

The Commission correctly concluded in the Notice that CPP rates should not be subject to state or federal regulation.^{11/} The wireless marketplace is the Commission's "poster child for competition," as Chairman Kennard has stated.^{12/} In a competitive industry, carriers are seeking to attract customers, increase volume on their systems, and provide consumers the most attractive product in the marketplace. Thus, as the Commission properly concluded, rate regulation is inappropriate.

Because CPP is a CMRS service, moreover, the Commission has sole jurisdiction over CMRS CPP rates, and has previously concluded that it would not regulate CMRS rates.^{13/} CPP rates, therefore, like the rates for any other CMRS service will be "regulated" by the competitive wireless marketplace. CMRS competition is sufficient to protect consumers and ensure just and reasonable rates. Thus, there is no justification for applying rate regulation where there is no demonstrated need for such regulatory intervention. Should, however, the Commission subsequently find that the competitive marketplace is not protecting consumers, it can revisit this issue, reconsider its forbearance decision, and intervene if necessary.

^{11/} *Id.* at para. 54.

^{12/} Speech of Chairman William E. Kennard, CTIA Convention, New Orleans, LA, February 9, 1999, "Crossing Into the Wireless Century," at p. 2.

^{13/} See Second Report and Order, 9 FCC Rcd 1411 (1994) at para. 174.

D. LEC Billing and Collection

A key component in the successful implementation and provision of CPP services in the U.S. is participation by LECs. Because, in many instances, the calling party will be the LEC's customer, the LEC must participate in the CPP process to facilitate the billing and collection of CPP charges. To ensure their participation, therefore, the Commission should, pursuant to its authority in Section 251 of the Communications Act, impose on LECs an obligation to negotiate in good faith with wireless carriers to provide, on reasonable terms and conditions, CPP billing and collection services. The same duties and obligations imposed on LECs in negotiating and entering into interconnection contracts, moreover, should apply to CPP billing and collection agreements, e.g., non-discrimination.

The negotiation process, however, should not be so specifically regulated by the Commission as to deny parties flexibility to enter into the billing and collection arrangement that best fulfill their operational, marketing and financial needs.^{14/} Thus, Commission CPP rules should obligate the LECs to negotiate in good faith, provide nondiscriminatory rates, terms and conditions of CPP billing and collection to all CMRS carriers

^{14/} For example, the LEC obligations regarding CPP should not be interpreted to preclude the use of CPP billing and collections clearinghouses or wireless carriers' contracting with carriers (particularly long distance carriers) that already have existing contractual relationships with LECs. These approaches could obviate the need for wireless carriers to enter into a separate billing and collection agreement with every LEC, thereby facilitating economic CPP introduction.

(including a Most Favored Nations clause as is required in the interconnection process), and accommodate CMRS carriers' operational and technical requirements to eliminate technical barriers to CPP implementation.^{15/}

III. CONCLUSION

To facilitate CPP implementation in the U.S., the Commission should refrain from establishing a complex set of rules and regulations. Rather, CPP will be most efficiently and effectively made available to all Americans through Commission efforts to remove barriers currently preventing its implementation. Thus, as described herein, the Commission should provide a simple, unobtrusive notification process, refrain from regulating CPP rates, and require good faith negotiation between CMRS carriers and

^{15/} LECs and wireless carriers, moreover, should work together to establish a standard interface to facilitate the exchange of billing and collection information for purposes of billing CPP. This interface standard also should include the development of an adequate back-up capability should the development of an electronic interface fail.

LECs to facilitate the establishment of a billing and collections process.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Robert S. Foosaner", is written over a horizontal line.

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Date: September 17, 1999

CERTIFICATE OF SERVICE

I, Rochelle L. Pearson, hereby certify that on this 17th day of September 1999, caused a copy of the attached Comments of Nextel Communications, Inc. to be served by hand delivery to the following:

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